

H.B. 1558 (Haley) Relating to an exemption from certain licensing requirements for inmates incarcerated in the Texas Department of Corrections who perform barbering. (30-1) Washington "Nay" (31-0)

H.B. 1632 (Montford) Relating to the administration of the Employees Retirement System of Texas. (30-1) Washington "Nay" (31-0)

H.B. 1700 (McFarland) Relating to the powers and duties of the Dallas County Utility and Reclamation District and the terms of office of the district directors. (30-1) Washington "Nay" (31-0)

H.B. 1841 (Glasgow) Relating to the dissolution of the South Eastland County Hospital District. (30-1) Washington "Nay" (31-0)

H.B. 2095 (Montford) Relating to determination of claims and filing of lawsuits under the Texas Employees Uniform Group Insurance Benefits Act and other laws administered by the Employees Retirement System of Texas. (30-1) Washington "Nay" (31-0)

H.B. 2551 (Sims) Relating to the payment for the purchase of road construction materials by a State agency. (30-1) Washington "Nay" (31-0)

CONCLUSION OF SESSION FOR LOCAL AND UNCONTESTED BILLS CALENDAR

The Presiding Officer (Senator Sims in Chair) announced that the session for the consideration of the Local and Uncontested Bills Calendar was concluded.

ADJOURNMENT

On motion of Senator Brooks, the Senate at 8:35 a.m. adjourned until 11:00 a.m. today.

SIXTIETH DAY (Tuesday, May 9, 1989)

The Senate met at 11:00 a.m. pursuant to adjournment and was called to order by President Pro Tempore Leedom.

The roll was called and the following Senators were present: Armbrister, Barrintos, Bivins, Brooks, Brown, Caperton, Carriker, Dickson, Edwards, Glasgow, Green, Haley, Harris, Henderson, Johnson, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Ratliff, Santiesteban, Sims, Tejeda, Truan, Uribe, Washington, Whitmire, Zaffirini.

A quorum was announced present.

Mary Jo Kaska, Religion Teacher, Nolan Catholic School, Fort Worth, offered the invocation as follows:

God of heaven and earth, we thank and praise You for the gift of this day. Our hearts are grateful, O God, for the people in our lives and the fruits of our labors and Your grace which we enjoy.

What are we here for, today? To do Your will, God, in all things. Be our guide on the path of truth, justice and compassion. Inspire us to find creative solutions to the problems of our day, and grant us, O God, peace in our days, peace to families, peace to our country, and peace among nations. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

REPORTS OF STANDING COMMITTEES

Senator Santiesteban submitted the following report for the Committee on Natural Resources:

H.B. 1333
S.B. 1693
H.B. 1441
H.B. 1442
S.B. 1796
H.C.R. 68 (Amended)
C.S.S.B. 512
C.S.S.B. 533
C.S.S.B. 1217
C.S.S.B. 1530

Senator Glasgow submitted the following report for the Committee on Jurisprudence:

H.B. 383
H.B. 1495
H.B. 1379
H.B. 1108
H.B. 1492
H.B. 3069

SENATE BILL ON FIRST READING

On motion of Senator Harris and by unanimous consent, the following bill was introduced, read first time and referred to the Committee indicated:

S.B. 1822 by Harris Economic Development
Relating to the regulation and licensing of entities who operate facilities for greyhound racing, horse racing, or training greyhounds or horses for racing.

CO-AUTHOR OF SENATE BILL 1378

On motion of Senator Parmer and by unanimous consent, Senator Johnson will be shown as Co-author of S.B. 1378.

SENATE BILL 191 WITH HOUSE AMENDMENTS

Senator Green called S.B. 191 from the President's table for consideration of the House amendments to the bill.

The President Pro Tempore laid the bill and the House amendments before the Senate.

Committee Amendment - Taylor

Amend **S.B. 191** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Article 9026, V.T.C.S. (Acts 1987, 70th Legislature, Chapter 563, Section 1) is repealed.

SECTION 2. The Revised Statutes are amended by adding Art. 9026 to read as follows:

Art. 9026 AUTOMOBILE RENTAL AGREEMENTS

Sec. 1. SCOPE. This article applies to persons and organizations renting private passenger automobiles from locations in this State.

Sec. 2. PURPOSE. The purpose of this article is to prohibit rental companies from imposing certain liabilities on persons who rent automobiles subject to certain stated exceptions in connection with private passenger automobile rental agreements.

Sec. 3. DEFINITIONS. In this Act:

(1) "Rental company" means any person or entity that is in the business of renting private passenger automobiles to the public. The term does not include a person or entity who holds a license issued by the Texas Motor Vehicle Commission pursuant to the Texas Motor Vehicle Commission Code (Art. 4413(36), V.T.C.S.) and whose primary business activity is not the renting of private passenger automobiles

(2) "Renter" means a person or entity that obtains the use of a private passenger automobile from a rental company under the terms of a rental agreement.

(3) "Rental agreement" means a written agreement stating the terms and conditions governing the use of a private passenger automobile provided by a rental company.

(4) "Damage" means any damage or loss to a rented vehicle, including theft or loss of use and any cost and expense incident to that damage or loss regardless of any negligence that might be involved in the damage or loss.

(5) "Private passenger automobile" means a motor vehicle of the private passenger type, including passenger vans, minivans, 4-wheel drive utility type vehicles, pickup trucks, and panel trucks that are primarily intended for private use.

(6) "Authorized driver" means:

(A) the person to whom a private passenger automobile is rented;

(B) the spouse of a person renting a private passenger automobile if the spouse is a licensed driver and meets the rental company's minimum age requirements;

(C) the employer or coworker of a person renting the private passenger automobile if the employer or coworker is engaged in business activity with the person to whom the automobile is rented and is a licensed driver and satisfies the rental company's minimum age requirements;

(D) a person who operates a rented private passenger automobile during an imminent life threatening emergency or while parking motor vehicles at a commercial establishment; or

(E) a person who is expressly listed as an authorized driver by the rental company on the rental agreement.

(7) "Speed contest" means a competition or race formally or otherwise arranged between the driver of a private passenger automobile and any other vehicle whether or not for compensation, but does not include a private passenger automobile being driven outside such a competition by a driver who exceeds the legal speed limit lawfully or unlawfully.

(8) "Loss damage waiver" means a rental car company's agreement not to hold a renter liable for all or any portion of any damage or loss related to the rented vehicle, any loss or use of the rented vehicle, or any storage, impound, towing, or administrative charges.

Sec. 4. PROHIBITED PRACTICES AND REQUIRED NOTICE. (a) A rental company, in a rental agreement may not offer for sale in this State a loss damage waiver under which the rental company agrees to limit the amount of the

renter's liability to the rental company unless the renter agrees to such loss damage waiver in writing at the time the rental agreement is executed. A rental company is not required to exclude any type of damage from its loss damage waiver. However, should a rental company choose to exclude some types of damage, the agreement may contain only the following exclusions and no others:

(1) damage is caused intentionally by an authorized driver or as a result of willful and wanton misconduct of an authorized driver;

(2) damage arises out of any authorized driver's operation of a private passenger automobile while legally intoxicated or under the influence of any illegal drug or chemical as defined or determined under the law of the state in which the damage occurred;

(3) damage is caused while the authorized driver is engaged in a speed contest;

(4) the rental transaction is based on information supplied by the renter with the intent to defraud the rental company;

(5) damage arises out of the use of the private passenger automobile while committing or otherwise engaged in a criminal act in which the automobile usage is substantially related to the nature of the criminal activity;

(6) damage arises out of the use of the private passenger automobile to transport persons or property for hire;

(7) damage arises out of the use of the private passenger automobile outside the United States or Canada unless such use is specifically authorized by the rental agreement, or

(8) damage arises out of the use of the private passenger automobile while towing or pushing anything.

(9) damages caused to the vehicle while it is being driven other than on a regularly maintained roadway.

(b) Security or a deposit for damage in any form may not be required or requested by the rental company during the rental period or pending resolution of any dispute.

(c) Each rental car agreement shall contain a provision whereby the rental customer can indicate in writing whether he is accepting or rejecting the loss damage waiver.

(d) Each rental car agreement offered for sale in this state shall contain the following provisions on the face of the agreement in not less than 12 point bold face type:

(1) The Texas personal automobile insurance policy provides coverage for the legal liabilities of the policyholder in connection with the loss of or damage to a rented vehicle except for damages caused intentionally. Therefore, it may not be necessary for the renter to purchase the loss damage waiver.

(2) The purchase of a loss damage waiver is not mandatory.

(3) The loss damage waiver is not insurance coverage.

(e) The cost of the loss damage waiver shall be reasonable in relation to the expenses of the rental car company arising from the direct costs for repair or replacement of vehicles for which no other sources of indemnification are provided.

(f) No oral or written representations shall be made by any employee or agent of the rental car company which contradict the provisions of this Act. No coercive language or action shall be used by any employee or agent of the rental car company in an attempt to persuade a rental customer to purchase the loss damage waiver. For the purposes of this subsection, if the rental customer has declined the waiver by signing the appropriate blank on the rental agreement, further statements or questions by an employee or agent of the rental company making reference to the loss damage waiver shall be deemed coercive.

Sec. 5. PENALTY. (a) A rental company that violates this article is subject to a civil penalty in an amount of at least \$500 and not to exceed \$1,000 for each act of violation.

(b) The attorney general or a county or district attorney may institute and conduct a suit in the name of the state to recover the civil penalty, injunctive relief, or both the civil penalty and injunctive relief.

(c) Any person or entity injured or threatened with injury by a violation of this Act may seek injunctive relief against any company or person who violates or threatens to violate the provisions of this Act.

SECTION 3. This Act shall not apply to rental car agencies who receive 90 percent or more of their revenue directly from insurance carriers.

SECTION 4. Section 1 of this Act takes effect on August 31, 1989.

SECTION 5. Section 2 of this Act takes effect on September 1, 1989, and applies to the rental of private passenger automobiles by rental companies under rental agreements executed on and after September 1, 1989. Rental of private passenger automobiles by rental companies under rental agreements executed before September 1, 1989, are governed by the law as it existed at the time the parties executed the rental agreement, and that law is continued in effect for that purpose.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Floor Amendment - Tallas

Amend Subsection (b) of the quoted Section 5 of Section 2 of C.S.S.B. 191 at lines 4-7, page 6, thereof to read as follows:

"(b) A county or district attorney may institute and conduct a suit in the name of the state to recover the civil penalty, injunctive relief, or both the civil penalty and injunctive relief."

Floor Amendment on Third Reading - Tallas

Amend subsection (e) of the quoted Section 4 of Section 2 of C.S.S.B. 191 at lines 14-17, page 5, thereof to read as follows:

"(e) The cost of the loss damages waiver shall be reasonable in relation to the expenses to the rental car company arising from the damages to vehicles for which no other sources of indemnification are provided."

The amendments were read.

Senator Green moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President Pro Tempore asked if there were any motions to instruct the Conference Committee on S.B. 191 before appointment.

There were no motions offered.

The President Pro Tempore announced the appointment of the following conferees on the part of the Senate on the bill: Senators Green, Chairman; Whitmire, Dickson, Carriker and Haley.

SENATE BILL 440 WITH HOUSE AMENDMENT

Senator Armbrister called **S.B. 440** from the President's table for consideration of the House amendment to the bill.

The President Pro Tempore laid the bill and the House amendment before the Senate.

Committee Amendment - McCollough

Amend **S.B. 440** on page 1, line 23 following "writing" and before "waives" by inserting the following:

"before a court of record in the jurisdiction where confined"

The amendment was read.

Senator Armbrister moved to concur in the House amendment to **S.B. 440**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE RESOLUTION 607

Senator Edwards offered the following resolution:

S.R. 607, Extending congratulations to all the teachers who have dedicated their lives to the enrichment of others in celebration of National Teachers Day.

The resolution was read and was adopted viva voce vote.

GUEST PRESENTED

Senator Barrientos was recognized and presented Dr. M. W. Blackstock of Austin.

Dr. Blackstock, participating in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians, was welcomed by the Senate and received an expression of gratitude for his service today.

SENATE BILL 193 WITH HOUSE AMENDMENT

Senator Ratliff called **S.B. 193** from the President's table for consideration of the House amendment to the bill.

The President Pro Tempore laid the bill and the House amendment before the Senate.

Committee Amendment - Tallas

Amend **S.B. 193** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Chapter 481, Government Code, as added by **S.B. 223**, Acts of the 71st Legislature, Regular Session, 1989, is amended by adding Section 481.076 to read as follows:

Sec. 481.076. WORK FORCE DEVELOPMENT INCENTIVE PROGRAM. (a) After consultation with the Adult Education Advisory Committee of the State Board of Education and the Central Education Agency, the department shall develop a work force development incentive program to enhance employment opportunities to meet the needs of existing and new industries in this state. At least 40 percent of the money expended under the program shall be used for work force training projects to assist existing businesses in the state. Money provided for a training project costing more than \$250,000 must be matched by funds provided by the industry benefiting from the project in an amount at least equal to twice the amount provided by the state.

(b) In developing and conducting the program, the department shall:

(1) use existing educational facilities available through public school districts, technical institutes, public junior colleges, and public universities; and

(2) solicit and receive the cooperation of the Texas Higher Education Coordinating Board, the Central Education Agency, and the Texas Employment Commission.

(c) The department, after consultation with the Central Education Agency, may:

(1) provide preemployment and developmental training to provide employment opportunities in new or expanding industries;

(2) provide preemployment and developmental training to provide civilian employment opportunities with federal military reservations in this state;

(3) conduct industrial training seminars in conjunction with public or private employers; and

(4) adopt rules or take other actions considered necessary by the department to fully implement this section.

(d) A public secondary school, technical institute, junior college, or university may request the department to establish at the educational institution industrial training courses that are designed to meet the employee training needs of employers, including federal military reservations, located in the geographic area of the institution. The department may exercise its discretion in determining whether to establish a course. To qualify for the creation of a course, the institution must reasonably foresee a hiring requirement in the specific skill to be taught.

(e) The department may not exercise the powers or perform the duties provided by this section unless the legislature specifically appropriates funds for that purpose.

SECTION 2. Section 11.18(b), Education Code, is amended to read as follows:

(b) The Central Education Agency shall:

(1) manage this program with adequate staffing to develop, administer, and support a comprehensive statewide adult education program and coordinate related federal and state programs for education and training of adults;

(2) develop, implement, and regulate a comprehensive statewide program for community level education services to meet the special needs of adults;

(3) develop the mechanism and guidelines for coordination of comprehensive adult education and related skill training services for adults with other agencies, both public and private, in planning, developing, and implementing related programs, including community education programs;

(4) administer all state and federal funds for adult education and related skill training in Texas, except funds provided for the work force development incentive program developed by the Texas Department of Commerce;

(5) prescribe and administer standards and accrediting policies for adult education;

(6) prescribe and administer rules and regulations for teacher certification for adult education; and

(7) accept and administer grants, gifts, services, and funds from available sources for use in adult education.

SECTION 3. This Act takes effect September 1, 1989.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Ratliff moved that the Senate do not concur in the House amendment, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President Pro Tempore asked if there were any motions to instruct the Conference Committee on S.B. 193 before appointment.

On motion of Senator Ratliff and by unanimous consent, the Senate conferees on S.B. 193 were instructed to retain the language in Section 4.006 (b) in the Senate engrossed version of the bill.

The President Pro Tempore announced the appointment of the following conferees on the part of the Senate on the bill: Senators Ratliff, Chairman; Bivins, Haley, Sims and Parmer.

HONORARY PAGES INTRODUCED

Senator Sims was recognized and introduced the following Tivy High School students serving as Honorary Pages: Paula Markham, Christy Morris, Kyla Wendland and Rosemary Ybarra.

The Senate expressed appreciation to these young people for their assistance today.

SENATE BILL 514 WITH HOUSE AMENDMENT

Senator Brooks called S.B. 514 from the President's table for consideration of the House amendment to the bill.

The President Pro Tempore laid the bill and the House amendment before the Senate.

Committee Amendment - Hury

Amend S.B. 514 by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Subsection (a), Section 3.01, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), as amended, is amended to read as follows:

Sec. 3.01. (a) The commission shall purchase, lease, rent, or otherwise acquire all supplies, materials, services, and equipment for all state agencies, except for the following materials, supplies, equipment, and services acquired for libraries operated as a part of university systems or institutions of higher education or for state-owned hospitals or clinics:

- (1) serial and journal subscriptions;
- (2) rare library materials, including books and papers; ~~and~~
- (3) other library materials, including books, papers, and copyrighted materials, and library services that are available from only one supplier or only from a person holding exclusive distribution rights to the materials or services; ~~and~~
- (4) materials, supplies or equipment purchased by a state-owned hospital or clinic through a group purchasing program that offers purchasing services at discount prices to two or more hospital or clinic facilities if the chief executive officer of the hospital or clinic, or his designee, certifies that the purchase of the particular supplies, material or equipment through the group purchasing program is the most cost-effective method of purchasing available.

SECTION 2. This Act takes effect September 1, 1989.

SECTION 3. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an

imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

On motion of Senator Brooks and by unanimous consent, the Senate concurred in the House amendment to **S.B. 514** viva voce vote.

SENATE BILL 897 WITH HOUSE AMENDMENT

Senator Montford called **S.B. 897** from the President's table for consideration of the House amendment to the bill.

The President Pro Tempore laid the bill and the House amendment before the Senate.

Committee Amendment - Guerrero

Amend **S.B. 897** on page 31, line 6, by inserting "prepared by the state auditor" between "report" and "."

The amendment was read.

On motion of Senator Montford and by unanimous consent, the Senate concurred in the House amendment to **S.B. 897** viva voce vote.

SENATE BILL 334 WITH HOUSE AMENDMENT

Senator Henderson called **S.B. 334** from the President's table for consideration of the House amendment to the bill.

The President Pro Tempore laid the bill and the House amendment before the Senate.

Floor Amendment - Shea

Amend **S.B. 334** as follows:

(1) On page 3, between lines 12 and 13, insert a new Section 3 as follows:

SECTION 3. Section 4, Article 3.33, Insurance Code, is amended to read as follows:

Sec. 4. AUTHORIZED INVESTMENTS AND LOANS. Subject to the limitations and restrictions herein contained, the investments and loans described in the following subsections, and none other, are authorized for the insurers subject hereto:

(a) **United States Government Bonds.** Bonds, evidences of indebtedness or obligations of the United States of America, or bonds, evidences of indebtedness or obligations guaranteed as to principal and interest by the full faith and credit of the United States of America, and bonds, evidences of indebtedness, or obligations of agencies and instrumentalities of the government of the United States of America;

(b) **Other Governmental Bonds.** Bonds, evidences of indebtedness or obligations of governmental units in the United States, Canada, or any province or city of Canada, and of the instrumentalities of such governmental units; provided:

(1) such governmental unit or instrumentality is not in default in the payment of principal or interest in any of its obligations; and

(2) investments in the obligations of any one governmental unit or instrumentality may not exceed 20 percent of the insurer's capital and surplus;

(c) **Corporate Bonds.** Bonds, evidences of indebtedness or obligations of corporations organized under the laws of the United States of America or its states or Canada or any state, district, province, or territory of Canada; provided:

(1) any such corporation must be solvent with at least \$1,000,000 of net worth as of the date of its latest annual or more recent certified audited financial statement or will have at least \$1,000,000 of net worth after completion of a securities offering which is being subscribed to by the insurer, or the obligation is guaranteed as to principal and interest by a solvent corporation meeting such net worth requirements which is organized under the laws of the United States of America or one of its states or Canada or any state, district, province, or territory of Canada;

(2) investments in the obligations of any one corporation may not exceed 20 percent of the insurer's capital and surplus; and

(3) the aggregate of all investments under this subsection may not exceed:

(A) one hundred percent of the insurer's assets (excluding, however, those assets representing the minimum capital required for the insurer), but only if more than 75 percent of the total amount invested by the insurer in such bonds, evidences of indebtedness, or obligations of any such corporations qualifying under Subdivision (1) of this subsection are rated either: (i) AA or better by Standard and Poor's Bond Ratings service; or (ii) Aa or better by Moody's Bond Ratings service; or

(B) eighty percent of the insurer's assets (excluding, however, those assets representing the minimum capital required for the insurer), but only if more than 50 percent of the total amount invested by the insurer in such bonds, evidences of indebtedness or obligations of any such corporations qualifying under Subdivision (1) of this subsection are rated either: (i) BBB or better by Standard and Poor's Bond Ratings service; or (ii) Baa or better by Moody's Bond Ratings service; or

(C) fifty percent of the insurer's assets;

(d) International Market. Bonds issued, assumed, or guaranteed by the Interamerican Development Bank, the International Bank for Reconstruction and Development (the World Bank), the Asian Development Bank, and the State of Israel; provided:

(1) investments in the bonds of any one of the entities specified above may not exceed 10 percent of the insurer's capital and surplus; and

(2) the aggregate of all investments made under this subsection may not exceed 10 percent of the insurer's assets;

(e) Policy Loans. Loans upon the security of the insurer's own policies not in excess of the amount of the reserve values thereof;

(f) Time and Savings Deposits. Any type or form of savings deposits, time deposits, certificates of deposit, NOW accounts, and money market accounts in solvent banks, savings and loan associations, and credit unions and branches thereof, organized under the laws of the United States of America or its states, when made in accordance with the laws or regulations applicable to such entities; provided the amount of the deposits in any one bank, savings and loan association, or credit union will not exceed the greater of:

(1) twenty percent of the insurer's capital and surplus;

(2) the amount of federal or state deposit insurance coverage pertaining to such deposit; or

(3) ten percent of the amount of capital, surplus, and undivided profits of the entity receiving such deposits;

(g) Equipment Trusts. Equipment trust obligations or certificates; provided:

(1) any such obligation or certificate is secured by an interest in transportation equipment that is in whole or in part within the United States of America and the amount of the obligation or certificate may not exceed 90 percent of the value of the equipment;

(2) the obligation or certificate provides a right to receive determined portions of rental, purchase, or other fixed obligatory payments for the use or purchase of the transportation equipment;

(3) investment in any one equipment trust obligation or certificate may not exceed 10 percent of the insurer's capital and surplus; and

(4) the aggregate of all investments made under this subsection may not exceed 10 percent of the insurer's assets;

(h) Common Stock. Common stock of any corporation organized under the laws of the United States of America or any of its states, shares of mutual funds doing business under the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.), and shares in real estate investment trusts as defined in the Internal Revenue Code of 1954 (26 U.S.C. Section 856); provided:

(1) any such corporation, other than a mutual fund, must be solvent with at least \$1,000,000 net worth as of the date of its latest annual or more recent certified audited financial statement or will have at least \$1,000,000 of net worth after completion of a securities offering which is being subscribed to by the insurer;

(2) mutual funds and real estate investment trusts must be solvent with at least \$1,000,000 of net assets as of the date of its latest annual or more recent certified audited financial statement;

(3) investments in any one corporation, mutual fund, or real estate investment trust may not exceed 10 percent of the insurer's capital and surplus; and

(4) the aggregate of all investments made under this subsection may not exceed 20 percent of the insurer's assets;

(i) Preferred Stock. Preferred stock of corporations organized under the laws of the United States of America or any of its states; provided:

(1) such corporation must be solvent with at least \$1,000,000 of net worth as of the date of its latest annual or more recent certified audited financial statement or will have at least \$1,000,000 of net worth after completion of a security offering which is being subscribed to by the insurer;

(2) investments in the preferred stock of any one corporation will not exceed 20 percent of the insurer's capital and surplus;

(3) in the aggregate not more than 10 percent of the insurer's assets may be invested in preferred stock, the redemption and retirement of which is not provided for by a sinking fund meeting the standards established by the National Association of Insurance Commissioners to value the preferred stock at cost; and

(4) the aggregate of all investments made under this subsection may not exceed 40 percent of the insurer's assets;

(j) Collateral Loans. Collateral loans secured by a first lien upon or a valid and perfected first security interest in an asset; provided:

(1) the amount of any such collateral loan will not exceed 80 percent of the value of the collateral asset at any time during the duration of the loan; and

(2) the asset used as collateral would be authorized for direct investment by the insurer under other provisions of this Section 4, except real property in Subsection (l);

(k) Real Estate Loans. Notes, evidences of indebtedness, or participations therein secured by a valid first lien upon real property or leasehold estate therein located in the United States of America; provided:

(1) the amount of any such obligation secured by a first lien upon real property or leasehold estate therein shall not exceed 90 percent of the value of such real property or leasehold estate therein, but the amount of such obligation:

(A) may exceed 90 percent but shall not exceed 100 percent of the value of such real property or leasehold estate therein if the insurer or one or more wholly owned subsidiaries of the insurer owns in the aggregate a 10 percent or greater equity interest in such real property or leasehold estate therein;

(B) may be 95 percent of the value of such real property or leasehold estate therein if it contains only a dwelling designed exclusively for occupancy by not more than four families for residential purposes, and the portion of the unpaid balance of such obligation which is in excess of an amount equal to 90 percent of such value is guaranteed or insured by a mortgage insurance company qualified to do business in the State of Texas; or

(C) may be greater than 90 percent of the value of such real property or leasehold estate therein to the extent the obligation is insured or guaranteed by the United States of America, the Federal Housing Administration pursuant to the National Housing Act of 1934, as amended (12 U.S.C. Section 1701 et seq.), or the State of Texas; and

(2) the term of an obligation secured by a first lien upon a leasehold estate in real property shall not exceed a period equal to four-fifths of the then unexpired term of such leasehold estate; provided the unexpired term of the leasehold estate must extend at least 10 years beyond the term of the obligation, and each obligation shall be payable in an installment or installments of sufficient amount or amounts so that at any time after the expiration of two-thirds of the original loan term, the principal balance will be no greater than the principal balance would have been if the loan had been amortized over the original loan term in equal monthly, quarterly, semiannual, or annual payments of principal and interest, it being required that under any method of repayment such obligation will fully amortize during a period of time not exceeding four-fifths of the then unexpired term of the security leasehold estate; and

(3) if any part of the value of buildings is to be included in the value of such real property or leasehold estate therein to secure the obligations provided for in this subsection, such buildings shall be covered by adequate property insurance, including but not limited to fire and extended coverage insurance issued by a company authorized to transact business in the State of Texas or by a company recognized as acceptable for such purpose by the insurance regulatory official of the state in which such real estate is located, and the amount of insurance granted in the policy or policies shall be not less than the unpaid balance of the obligation or the insurable value of such buildings, whichever is the lesser; the loss clause shall be payable to the insurer as its interest may appear; and

(4) to the extent any note, evidence of indebtedness, or participation therein under this subsection represents an equity interest in the underlying real property, the value of such equity interest shall be determined at the time of execution of such note, evidence of indebtedness, or participation therein and that portion shall be designated as an investment subject to the provisions of Subsection (1)(2) of this section; and

(5) the amount of any one such obligation may not exceed 25 percent of the insurer's capital and surplus;

(1) Real Estate. Real property fee simple or leasehold estates located within the United States of America, as follows:

(1) home and branch office real property or participations therein, which must be materially enhanced in value by the construction of durable, permanent-type buildings and other improvements costing an amount at least equal to the cost of such real property, exclusive of buildings and improvements at the time of acquisition, or by the construction of such buildings and improvements which must be commenced within two years of the date of the acquisition of such real property; provided:

(A) at least 30 percent of the available space in such building shall be occupied for the business purposes of the insurer and its affiliates; and

(B) the aggregate investment in such home and branch offices shall not exceed 20 percent of the insurer's assets; and

(2) other investment property or participations therein, which must be materially enhanced in value by the construction of durable, permanent-type buildings and other improvements costing an amount at least equal to the cost of such real property, exclusive of buildings and improvements at the time of acquisition, or by the construction of such buildings and improvements which must be commenced within two years of the date of acquisition of such real property; provided that such investment in any one piece of property or interest therein, including the improvements, fixtures, and equipment pertaining thereto may not exceed five percent of the insurer's assets; provided, however, nothing in this article shall allow ownership of, development of, or equity interest in any residential property or subdivision, single or multiunit family dwelling property, or undeveloped real estate for the purpose of subdivision for or development of residential, single, or multiunit family dwellings, except acquisitions as provided in Subdivision (4) below, and such ownership, development, or equity interests shall be specifically prohibited;

(3) the admissible asset value of each such investment in the properties acquired under Subdivisions (1) and (2) of this subsection shall be subject to review and approval by the Commissioner of Insurance. The commissioner shall have discretion at the time such investment is made or any time when an examination of the company is being made to cause any such investment to be appraised by an appraiser, appointed by the commissioner, and the reasonable expense of such appraisal shall be paid by such insurance company and shall be deemed to be a part of the expense of examination of such company; if the appraisal is made upon application of the company, the expense of such appraisal shall not be considered a part of the expense of examination of such company; no insurance company may hereafter make any write-up in the valuation of any of the properties described in Subdivision (1) or (2) of this subsection unless and until it makes application therefor and such increase in valuation shall be approved by the commissioner; and

(4) other real property acquired:

(A) in good faith by way of security for loans previously contracted or money due; or

(B) in satisfaction of debts previously contracted for in the course of its dealings; or

(C) by purchase at sales under judgment or decrees of court, or mortgage or other lien held by such insurer; and

(5) regardless of the mode of acquisition specified herein, upon sale of any such real property, the fee title to the mineral estate or any portion thereof may be retained by the insurance company indefinitely;

(m) Oil, Gas, and Minerals. In addition to and without limitation on the purposes for which real property may be acquired, secured, held, or retained pursuant to other provisions of this section, every such insurance company may secure, hold, retain, and convey production payments, producing royalties and producing overriding royalties, or participations therein as an investment for the production of income; provided:

(1) in no event may such company carry such assets in an amount in excess of 90 percent of the appraised value thereof; and

(2) no one investment under this subsection may exceed 10 percent of the insurer's capital and surplus in excess of statutory minimum capital and surplus applicable to that insurer, and the aggregate of all such investments may not exceed 10 percent of the insurer's assets as of December 31st next preceding the date of such investment; and

(3) for the purposes of this subsection, the following definitions apply:

(A) a production payment is defined to mean a right to oil, gas, or other minerals in place or as produced that entitles its owner to a specified fraction of production until a specified sum of money, or a specified number of units of oil, gas, or other minerals, has been received;

(B) a royalty and an overriding royalty are each defined to mean a right to oil, gas, and other minerals in place or as produced that entitles the owner to a specified fraction of production without limitation to a specified sum of money or a specified number of units of oil, gas, or other minerals;

(C) "producing" is defined to mean producing oil, gas, or other minerals in paying quantities, provided that it shall be deemed that oil, gas, or other minerals are being produced in paying quantities if a well has been "shut in" and "shut-in royalties" are being paid;

(n) Foreign Countries and United States Territories. Investments in foreign countries or in commonwealths, territories, or possessions of the United States where the insurer conducts an insurance business; provided:

(1) such investments are similar to those authorized for investment within the United States of America by other provisions of this section; and

(2) such investments when added to the amount of similar investments made within the United States do not result in the combined total of such investments exceeding the limitations specified in Subsections (a) through (p) of this section; and

(3) such investments may not exceed the amount of reserves attributable to the business in force in said countries; provided, however, such investments may exceed such reserves to the extent required by any country as a condition to doing business therein, but to the extent such investments exceed such reserves said investments shall not be considered as admitted assets of the insurer;

(o) Investments Not Otherwise Specified. Investments which are not otherwise authorized by this article and which are not specifically prohibited by statute, including that portion of any investments which may exceed the limits specified in Subsections (a) through (n) of this section; provided:

(1) if any aggregate or individual specified investment limitation in Subsections (a) through (n) of this section is exceeded, then the excess portion of such investment shall be an investment under this subsection; and

(2) the burden of establishing the value of such investments shall be upon the insurer; and

(3) the amount of any one such investment may not exceed 10 percent of the insurer's capital and surplus in excess of the statutory minimum capital and surplus applicable to that insurer; and

(4) the aggregate of all investments made under this subsection may not exceed the lesser of either five percent of the insurer's assets or the insurer's capital and surplus in excess of the statutory minimum capital and surplus applicable to that insurer;

(p) Other Authorized Investments. Those other investments as follows:

(1) any investment held by an insurer on the effective date of this Act, which was legally authorized at the time it was made or acquired or which the insurer was authorized to hold or possess immediately prior to such effective date, but which does not conform to the requirements of the investments authorized in Subsections (a) through (o) of this section, may continue to be held by and considered as an admitted asset of the insurer; provided the investment is disposed of at its maturity date, if any, or within the time prescribed by the law under which it was acquired, if any; and provided further, in no event shall the provisions of this subdivision alter the legal or accounting status of such asset; and

(2) any other investment which may be authorized by other provisions of this code or by other laws of this state for the insurers which are subject to this article.

(q) **Special Limitations for Certain Fixed Annuity Insurers.** The quantitative limitations imposed above in Subsections (b)(2), (c)(2), (f)(1), (g)(3), (h)(3), (i)(2), and (k)(5) of this section shall not apply to any insurer with assets in excess of \$2,500,000,000 and that receives more than 90 percent of its premium income from fixed rate annuity contracts and that has more than 90 percent of its assets allocated to its reserves held for fixed rate annuity contracts, excluding, however, any premium income, assets, and reserves received from, held for, or allocated to separate accounts from the computation of the above percentages, and in lieu thereof, the following quantitative limitations shall apply to such insurers:

(1) the limitation in Subsection (b)(2) of this section shall be two percent of the insurer's assets;

(2) the limitation in Subsection (c)(2) of this section shall be two percent of the insurer's assets;

(3) the limitation in Subsection (f)(1) of this section shall be two percent of the insurer's assets;

(4) the limitation in Subsection (g)(3) of this section shall be one percent of the insurer's assets;

(5) the limitation in Subsection (h)(3) of this section shall be one percent of the insurer's assets;

(6) the limitation in Subsection (i)(2) of this section shall be two percent of the insurer's assets; and

(7) the limitation in Subsection (k)(5) of this section shall be two percent of the insurer's assets.

(r) **Premium Loans.** Loans to finance the payment of premiums for the insurer's own insurance policies or annuity contracts; provided that the amount of any such loan does not exceed the sum of: (i) the available cash value of such insurance policy or annuity contract; and (ii) the amount of any escrowed commissions payable relating to such insurance policy or annuity contract for which the premium loan is made.

(2) Renumber Section 2 of the bill as Section 3.

The amendment was read.

Senator Henderson moved to concur in the House amendment to **S.B. 334**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE SENATE BILL 1613 ON SECOND READING

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1613, Relating to the management, coordination, supervision, and provision of public school health services.

The bill was read second time and was passed to engrossment viva voce vote.

COMMITTEE SUBSTITUTE SENATE BILL 1613 ON THIRD READING

Senator Brooks moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **C.S.S.B. 1613** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

SENATE JOINT RESOLUTION 71 ON SECOND READING

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.J.R. 71. Proposing a constitutional amendment relating to the election of a district attorney in Fort Bend County.

The resolution was read second time and was passed to engrossment viva voce vote.

SENATE JOINT RESOLUTION 71 ON THIRD READING

Senator Brown moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **S.J.R. 71** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The resolution was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
SENATE BILL 617 ON SECOND READING**

Senator Washington asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

C.S.S.B. 617. Relating to regulation of private process servers; providing penalties.

There was objection.

Senator Washington then moved to suspend the regular order of business and take up **C.S.S.B. 617** for consideration at this time.

The motion prevailed by the following vote: Yeas 20, Nays 10.

Yeas: Barrientos, Bivins, Brooks, Brown, Carriker, Dickson, Harris, Henderson, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Tejada, Uribe, Washington, Zaffirini.

Nays: Armbrister, Edwards, Glasgow, Green, Haley, Johnson, Ratliff, Sims, Truan, Whitmire.

Absent: Caperton.

The bill was read second time.

Senator Ratliff offered the following amendment to the bill:

Floor Amendment No. 1

Amend C.S.S.B. 617 by inserting the following language between the words "state" and "in" on line 64, page 1, of the committee printing:

"located in a county with a population of 100,000 or more according to the most recent federal decennial census"

The amendment was read.

Senator Bivins offered the following substitute amendment for Floor Amendment No. 1:

Floor Amendment No. 2

Amend C.S.S.B. 617 by inserting the following language between the words "state" and "in" on line 64, page 1, of the committee printing:

"located in a county with a population of 30,000 or more according to the most recent federal decennial census"

The substitute amendment was read and was adopted by the following vote: Yeas 21, Nays 8.

Yeas: Barrientos, Bivins, Brooks, Brown, Carriker, Dickson, Edwards, Glasgow, Haley, Harris, Krier, Leedom, Lyon, Montford, Parker, Parmer, Santiesteban, Tejeda, Uribe, Washington, Zaffirini.

Nays: Armbrister, Green, Henderson, Johnson, Ratliff, Sims, Truan, Whitmire.

Absent: Caperton, McFarland.

Senator Lyon offered the following amendment to the bill:

Floor Amendment No. 3

Amend C.S.S.B. 617 as follows:

In SECTION 4, replace the words "civil process" on line 2, page 2 with the word "citation".

In SECTION 13 (a), after the word "order" delete the period and add the following:

"or for any person serving subpoenas who is working directly under the supervision of a licensed attorney."

The amendment was read and was adopted viva voce vote.

On motion of Senator Washington and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment viva voce vote.

RECORD OF VOTES

Senators Armbrister, Glasgow, Ratliff, Sims, Barrientos and Truan asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

SENATE CONCURRENT RESOLUTION 144

Senator Haley offered the following resolution:

WHEREAS, House Bill Number 340 has been passed by the Senate and is now in the House, and there are certain corrections to be made therein; now, therefore, be it

RESOLVED, By the Senate of the State of Texas, the House of Representatives concurring, that the House is hereby respectfully requested to return House Bill Number 340 to the Senate for further consideration.

The resolution was read.

On motion of Senator Haley and by unanimous consent, the resolution was considered immediately and was adopted viva voce vote.

SENATE BILL 1334 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 1334, Relating to the punishment for certain offenses involving weapons or controlled substances committed within 1,000 feet of a primary or secondary school.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 1334 ON THIRD READING

Senator Armbrister moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **S.B. 1334** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

SENATE BILL 1335 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 1335, Relating to the punishment for an offense in regard to which the defendant is criminally responsible for the conduct of a person younger than 17 years of age.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 1335 ON THIRD READING

Senator Armbrister moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **S.B. 1335** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

COMMITTEE SUBSTITUTE

SENATE BILL 834 ON SECOND READING

On motion of Senator Johnson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 834, Relating to establishment of a school meal supplement program for pregnant and lactating students.

The bill was read second time and was passed to engrossment viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 834 ON THIRD READING**

Senator Johnson moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that C.S.S.B. 834 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

SENATE BILL 1723 ON SECOND READING

Senator Parker asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

S.B. 1723, Relating to the application of the Texas Sunset Act to the Public Utility Commission and the Office of Public Utility Counsel.

There was objection.

Senator Parker then moved to suspend the regular order of business and take up **S.B. 1723** for consideration at this time.

The motion prevailed by the following vote: Yeas 21, Nays 10.

Yeas: Armbrister, Barrientos, Brown, Carriker, Dickson, Glasgow, Green, Haley, Harris, Henderson, Johnson, Krier, Montford, Parker, Parmer, Santiesteban, Tejada, Uribe, Washington, Whitmire, Zaffirini.

Nays: Bivins, Brooks, Caperton, Edwards, Leedom, Lyon, McFarland, Ratliff, Sims, Truan.

The bill was read second time.

Senator Truan offered the following amendment to the bill:

Amend **S.B. 1723** by striking on line 35, "and this Act expires".

The amendment was read and was adopted by the following vote: Yeas 21, Nays 8.

Yeas: Armbrister, Barrientos, Brooks, Caperton, Dickson, Edwards, Glasgow, Green, Johnson, Leedom, Lyon, McFarland, Parmer, Santiesteban, Sims, Tejada, Truan, Uribe, Washington, Whitmire, Zaffirini.

Nays: Bivins, Brown, Haley, Harris, Henderson, Montford, Parker, Ratliff.

Absent: Carriker, Krier.

On motion of Senator Parker and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment viva voce vote.

RECORD OF VOTE

Senator Edwards asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

(President in Chair)

MESSAGE FROM THE HOUSE

House Chamber
May 9, 1989

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

The House has concurred in Senate amendments to **H.B. 112** by a non-record vote.

H.B. 2115, Relating to amending the Civil Practice and Remedies Code to provide immunity for officers and employees of municipal corporations who are sued in their individual capacities.

S.B. 631, Relating to the supervision of certain water districts and authorities and river authorities. (As substituted and amended)

S.C.R. 144, Requesting that the House of Representatives return **H.B. 340**.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

BILLS SIGNED

The President announced the signing in the presence of the Senate, after the captions had been read, the following enrolled bills:

S.B. 69
S.B. 122
S.B. 204
S.B. 245
S.B. 317
S.B. 429
S.B. 439
S.B. 734
S.B. 1050

**COMMITTEE SUBSTITUTE
SENATE BILL 1606 ON SECOND READING**

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1606, Relating to amending Section 143.119(g) of the municipal civil service act modifying the six-month rule on indefinite suspensions where the act complained of would also constitute a felony.

The bill was read second time and was passed to engrossment viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1606 ON THIRD READING**

Senator Brown moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **C.S.S.B. 1606** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Carriker, Dickson, Edwards, Glasgow, Haley, Harris, Henderson, Johnson, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Ratliff, Santiesteban, Sims, Tejada, Truan, Uribe, Whitmire, Zaffirini.

Nays: Green, Washington.

The bill was read third time and was passed viva voce vote.

RECORD OF VOTE

Senator Green asked to be recorded as voting "Nay" on the final passage of the bill.

COMMITTEE SUBSTITUTE SENATE BILL 1012 ON SECOND READING

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1012, Relating to liability in connection with the construction of new residences and residential improvements.

The bill was read second time.

Senator Lyon offered the following amendment to the bill:

Amend **C.S.S.B. 1012** as follows:

(1) On page 2, line 2, strike "each construction defect that is" and insert "the construction defects that are."

(2) Strike the sentence that begins on page 2, line 21.

(3) On page 2, line 43, after "defect" strike "and may not recover attorney's fees or costs." and substitute "and may recover only the amount of reasonable and necessary attorney's fees and costs incurred before the offer was rejected or deemed rejected."

(4) On page 2, line 49, strike "substantially."

(5) On page 2, line 58, strike Subsection (h) and renumber the subsequent subsections appropriately.

(6) On page 3, line 5, after "costs" strike the period and add "in addition to any other damages recoverable under any law not inconsistent with the provisions of this chapter."

The amendment was read and was adopted viva voce vote.

On motion of Senator Montford and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment viva voce vote.

COMMITTEE SUBSTITUTE SENATE BILL 1012 ON THIRD READING

Senator Montford moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **C.S.S.B. 1012** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

RECORD OF VOTE

Senator Washington asked to be recorded as voting "Nay" on the final passage of the bill.

COMMITTEE SUBSTITUTE SENATE BILL 979 ON SECOND READING

On motion of Senator McFarland and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 979, Relating to criminal practice and procedure in municipal, justice, and county courts and to creating an offense for improper filing of certain cases.

The bill was read second time and was passed to engrossment viva voce vote.

COMMITTEE SUBSTITUTE SENATE BILL 979 ON THIRD READING

Senator McFarland moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **C.S.S.B. 979** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

COMMITTEE SUBSTITUTE SENATE BILL 1721 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1721, Relating to children who engage in delinquent conduct or conduct indicating a need for supervision and the families of those children.

The bill was read second time and was passed to engrossment viva voce vote.

COMMITTEE SUBSTITUTE SENATE BILL 1721 ON THIRD READING

Senator Zaffirini moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **C.S.S.B. 1721** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

RECORD OF VOTE

Senator Washington asked to be recorded as voting "Nay" on the final passage of the bill.

**COMMITTEE SUBSTITUTE
SENATE BILL 1722 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1722, Relating to services to children, youth, and their families provided by the Texas Youth Commission and juvenile boards.

The bill was read second time and was passed to engrossment viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1722 ON THIRD READING**

Senator Zaffirini moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **C.S.S.B. 1722** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

SENATE BILL 1718 ON SECOND READING

On motion of Senator Krier and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 1718, Relating to the development of a state plan that relates to the current and future needs of the children of the state.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 1718 ON THIRD READING

Senator Krier moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **S.B. 1718** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

SENATE BILL 668 ON SECOND READING

On motion of Senator Caperton and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 668, Relating to application of the open meetings law and open records law to the Texas Catastrophe Property Insurance Association.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 668 ON THIRD READING

Senator Caperton moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **S.B. 668** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
SENATE BILL 50 ON SECOND READING**

On motion of Senator Leedom and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 50. Relating to the punishment for burglary of coin-operated or coin collection devices.

The bill was read second time and was passed to engrossment viva voce vote.

RECORD OF VOTE

Senator Glasgow asked to be recorded as voting “Nay” on the passage of the bill to engrossment.

**COMMITTEE SUBSTITUTE
SENATE BILL 50 ON THIRD READING**

Senator Leedom moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **C.S.S.B. 50** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Carriker, Dickson, Edwards, Green, Haley, Harris, Henderson, Johnson, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Ratliff, Santiesteban, Sims, Tejada, Truan, Uribe, Whitmire, Zaffirini.

Nays: Glasgow, Washington.

The bill was read third time and was passed viva voce vote.

RECORD OF VOTE

Senator Glasgow asked to be recorded as voting “Nay” on the final passage of the bill.

SENATE BILL 1378 ON SECOND READING

On motion of Senator Parmer and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 1378. Relating to the election of members of the governing board of certain community college districts from single-member districts.

The bill was read second time and was passed to engrossment viva voce vote.

RECORD OF VOTES

Senators Brown, Glasgow and McFarland asked to be recorded as voting “Nay” on the passage of the bill to engrossment.

SENATE BILL 1378 ON THIRD READING

Senator Parmer moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that S.B. 1378 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 4.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Caperton, Carriker, Dickson, Edwards, Green, Haley, Harris, Henderson, Johnson, Krier, Leedom, Lyon, Montford, Parker, Parmer, Ratliff, Santiesteban, Sims, Tejeda, Truan, Uribe, Whitmire, Zaffirini.

Nays: Brown, Glasgow, McFarland, Washington.

The bill was read third time and was passed viva voce vote.

RECORD OF VOTES

Senators Brown, Glasgow and McFarland asked to be recorded as voting "Nay" on the final passage of the bill.

**MOTION TO PLACE COMMITTEE SUBSTITUTE
SENATE BILL 884 ON SECOND READING**

Senator Parmer moved to suspend the regular order of business to take up for consideration at this time:

C.S.S.B. 884. Relating to the regulation of the care and treatment of animals in certain riding stables; providing a penalty.

The motion was lost by the following vote: Yeas 20, Nays 11. (Not receiving two-thirds vote of Members present)

Yeas: Barrientos, Brooks, Caperton, Carriker, Dickson, Edwards, Green, Johnson, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Tejeda, Truan, Uribe, Washington, Whitmire, Zaffirini.

Nays: Armbrister, Bivins, Brown, Glasgow, Haley, Harris, Henderson, Krier, Leedom, Ratliff, Sims.

SENATE BILL 294 WITH HOUSE AMENDMENT

Senator Krier called S.B. 294 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment - Danburg

Amend S.B. 294 as follows:

(1) Strike the first two sentences of Subsection (a), Section 442.0071, as added by Section 1 of the bill, and substitute the following: The Texas preservation trust fund is a fund outside the state treasury. The state treasurer shall be trustee of the fund as provided by Section 404.073. The fund consists of appropriations made to the fund, loan repayments, grants and donations made for the purposes of this program, proceeds of sales, income earned on money in the fund, and any other money received under this section.

(2) Strike the last sentence of Subsection (b), Section 442.0071, as added by Section 1 of the bill, and substitute the following: "Money deposited to the credit of the fund specifically for architectural projects or for archeological projects may be used only for the type of projects specified. If such a specification is not made, 90 percent of the money shall be used for historic architectural projects and 10 percent shall be used for prehistoric and historic archeological projects."

The amendment was read.

Senator Krier moved that the Senate do not concur in the House amendment, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **S.B. 294** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Krier, Chairman; Montford, Armbrister, Harris and Tejada.

HOUSE BILL 3018 REREFERRED

On motion of Senator Zaffirini and by unanimous consent, **H.B. 3018** was withdrawn from the Committee on Intergovernmental Relations and rereferred to the Committee on Natural Resources.

VOTE ON FINAL PASSAGE OF HOUSE BILL 340 RECONSIDERED

On motion of Senator Haley and by unanimous consent, the vote by which **H.B. 340** was finally passed was reconsidered.

Question - Shall **H.B. 340** be finally passed?

SENATE RULE 11.11 SUSPENDED

On motion of Senator Glasgow and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on Jurisprudence might consider the following bills at 2:00 p.m. today:

H.B. 596

S.B. 388

MEMORIAL RESOLUTIONS

S.R. 589 - By Montford: In memory of Robert Ervin Smotherman of Whiteface.

S.R. 597 - By Glasgow: In memory of Clinton (Pete) Hatler of Glen Rose.

S.R. 598 - By Glasgow: In memory of Arie O. Sharp of Ranger.

S.R. 599 - By Glasgow: In memory of Royce Levon Guest of Huckabay.

S.R. 600 - By Glasgow: In memory of Thomas L. Boudreau of Mineral Wells.

S.R. 602 - By Glasgow: In memory of Glenn L. Moring of Stephenville.

S.R. 603 - By Glasgow: In memory of Arthur Charles Streeter and his three children, David Glade Streeter, Eric Charles Streeter, and Rebecca Esther Streeter of Azle.

S.R. 604 - By Glasgow: In memory of Jerry W. Sitton of Cisco.

S.R. 605 - By Glasgow: In memory of Hugh Morris Cunningham of Crowley.

S.R. 609 - By Truan: In memory of Mary Clair Hill of Kingsville.

S.R. 610 - By Truan: In memory of Arthur F. Doerfler of Kingsville.

WELCOME AND CONGRATULATORY RESOLUTIONS

S.C.R. 142 - By Lyon: Commending the Texas Nature Conservancy for its outstanding contributions in preserving the beauty of our environment.

S.R. 588 - By Krier: Commending the service of William Elt Thornton to "all" the people of Texas.

S.R. 590 - By Green: Extending congratulations to Mrs. Bessie Melton of Houston on her 100th birthday.

S.R. 591 - By Uribe: Extending congratulations to Elma and Carlos Rodriguez for the recognition they have received and so richly deserve.

S.R. 592 - By Brown: Extending congratulations to Stephen P. Payne on his 25th birthday.

S.R. 593 - By Barrientos: Proclaiming May, 1989, as Karate Kids of Texas, Villareal Karate Club Just Say No To Drugs Month.

S.R. 595 - By Haley: Extending congratulations to Scott Westhoven of Warren on being named one of the 10 finalists for the Texas Dreamer and Doer Award.

S.R. 596 - By Glasgow: Extending welcome to Mary Jo Kaska, Religion Teacher of Nolan Catholic School, Fort Worth.

S.R. 601 - By Glasgow: Extending congratulations to Brad Leese on attaining the rank of Eagle Scout.

S.R. 606 - By Truan: Extending congratulations to the officers and members of LULAC as they celebrate the 60th anniversary of their founding.

S.R. 608 - By Lyon: Commending the 1988-89 Fannindel basketball team for its outstanding basketball season and for obtaining the state championship.

ADJOURNMENT

On motion of Senator Brooks, the Senate at 12:58 p.m. adjourned until 10:00 a.m. tomorrow.

APPENDIX

Signed by Governor
(May 4, 1989)

S.B. 1093 (Effective immediately)

H.B. 571 (Effective immediately)

H.C.R. 137

H.C.R. 226

Sent to Governor
(May 9, 1989)

S.B. 54

S.B. 69

S.B. 122

S.B. 174

S.B. 204

S.B. 245

S.B. 317

S.B. 391

S.B. 429

S.B. 439

S.B. 615

S.B. 734

S.B. 916

S.B. 1050

SIXTY-FIRST DAY
(Wednesday, May 10, 1989)

The Senate met at 10:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Carriker, Dickson, Edwards, Glasgow, Green, Haley, Harris, Henderson, Johnson, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Ratliff, Santiesteban, Sims, Tejada, Truan, Uribe, Washington, Whitmire, Zaffirini.

A quorum was announced present.

Former Senator and Supreme Court Justice Jim Wallace offered the invocation as follows:

Our Father, we are thankful to You for the privilege of being here this morning. Thank You for this body and all it has done in the past, is doing now and will be doing in the future. Thank You for Your love for us, the power and strength You have and give to us to do what is right and just. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

REPORTS OF STANDING COMMITTEES

Senator Glasgow submitted the following report for the Committee on Jurisprudence:

H.B. 1795
H.B. 596
C.S.S.B. 388

Senator McFarland submitted the following report for the Committee on Criminal Justice:

S.B. 1377
S.B. 588
S.B. 738
S.B. 748
C.S.S.B. 850
C.S.S.B. 303
C.S.S.B. 1677
C.S.S.B. 1559

Senator Caperton submitted the following report for the Committee on Finance:

H.B. 428
H.B. 2528
C.S.S.B. 1732
C.S.S.B. 1767
C.S.H.B. 981
C.S.H.B. 2619